



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Advance
Demand Flexibility Through Electric Rates

Rulemaking 22-07-005
(Filed July 14, 2022)

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**OPENING COMMENTS OF CALIFORNIA ENVIRONMENTAL JUSTICE ALLIANCE
ON ASSIGNED COMMISSIONER'S PHASE 1 SCOPING MEMO AND RULING**

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Representing California Environmental Justice Alliance

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The California Environmental Justice Alliance (“CEJA”) respectfully submits these opening comments on the Assigned Commissioner’s November 2, 2022 Phase 1 Scoping Memo and Ruling (“Scoping Memo”). The Scoping Memo schedule provides that Track B comments are due December 2, 2022, so these timely-filed comments focus on Track B as well as responding to the specific questions posed.¹

I. INTRODUCTION

This proceeding will tackle questions that can shape the future grid in a way that empowers low-income households while lowering their energy burdens. Under AB 205, rates must incentivize electrification and decarbonization, in addition to ensuring low-income households are not unfairly burdened by their electric and gas bills. To accomplish these goals, rates must be transparent and accessible, and they should ensure that households do not have to compromise their health and welfare to avoid unaffordable energy bills. Such rates can only be set by infusing equity considerations into all aspects of the proceeding.

CEJA was therefore pleased that the Scoping Memo improves the proposed schedule and vision for the proceeding by providing staff-led workshops for each track, and grounding analysis in the staff paper. CEJA further appreciates that the Scoping Memo adds a question to Phase I, Track A specifically asking, “how should volumetric charges change following the implementation of the fixed charge?”,² as well as a question regarding how rate design can align pricing with periods of low grid emissions.³

As further discussed below, the Commission must take additional affirmative steps to ensure that equity considerations are included in each aspect of this proceeding. As an initial matter, both the fixed charge and the dynamic rate phases of the proceeding should include at

¹ Scoping Memo, pp. 9 (schedule), 10-11 (specific questions), 15 (ordering December 2, 2022 comments.)

² Scoping Memo, pp. 3-4 (Track A question 2.)

³ Scoping Memo, p. 4 (Track B, question 3 c.)

least one separate, equity-focused workshop, Staff proposal based on that workshop, and a comment period focused only on equity and meeting the needs of low-income and disadvantaged communities. We further urge the Commission to include our equity framework and principles in Track B, and develop a behavioral pilot that targets disadvantaged communities (“DACs”) and low-income households to allow these customers to advance policy goals like reducing grid emissions and while reducing their own monthly bills.

II. SUMMARY OF TRACK B EQUITY FRAMEWORK AND PRINCIPLES

In order to ensure that equity can guide, be considered and fully integrated into Track B, CEJA provides the following equity framework and principles.

Program Design Must Evaluate Consider Barriers to Low-Income and DACs

The Commission’s consideration of equity in relation to dynamic rates must begin by considering the barriers that many low-income households and disadvantaged communities face when seeking to engage with a changing electricity system, including with dynamic rates. In addition to income, these barriers may include:

- more likely to rent than own, which means less autonomy in choosing energy efficiency and electrification of home;
- less reliable home wifi access, which means less ability to participate in dynamic pricing that relies on “smart” appliances and in-the-moment responses;
- less flexibility in hours of use, since people working multiple jobs must use home appliances when they can be home, and cannot shift load to when they are at work;
- more crowded homes, which means greater need for energy at different times of day, and more people are impacted by e.g. load shifting;
- more likely to be linguistically isolated, which makes acting on technical information in English more challenging; and
- very price-responsive, which raises the risk they will forego power when they need it.

Because of these barriers, incorporating wholesale prices into demand flexibility price signals may add an entire layer of complexity in which low-income customers may not have the technology or economic resilience to engage as other households would. Particularly for households that are on a fixed income, predictability in rates and bills is critical.

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Equity, Climate, and Air Quality Must Guide the Analysis

In addition to centering consideration of barriers, the Commission must be guided by equity, climate requirements, and air quality goals. These mandates and policies will help ensure that Commission decisions are just and equitable.

In particular, we recommend that the Commission look to the experience of low-income customers with TOU, and in that context, center and separate out equity considerations. Given negative experience with harmful and unpredicted price spikes, for example those that occurred in ERCOT, many low-income households could be devastated by dynamic rates.

Low-Income Customer Choice and Bill Protections Are Crucial

To ensure that low-income customers are not unduly harmed by a transition to dynamic rates, customer choice and bill protections are critical. This means both that customers must be able to understand the choices with which they are presented and that if dynamic rates have significant bill impacts, protections will be immediate and automatic. These bill protections will be critical to help low-income customers manage their bills and achieve AB 205's mandate that "a low-income ratepayer in each baseline territory would realize a lower average monthly bill without making any changes in usage."⁴ The Commission will likely need to allow low-income customers to choose whether to participate in dynamic pricing or remain on current rates, and do so without penalty.

Dynamic Rates Should Support Reliability to Displace High-Impact Resources

In general, efficient load management should be deployed to reduce peak. Other energy providers have successfully used demand-response type programs to shave off the highest load. Flexible pricing should be designed so it can qualify for RA/reliability and displace other resources, or it will not be effective in reducing GHGs and will only increase ratepayer costs.

Center Equity Statewide

The Commission will need to play a critical role to ensure that equity is considered throughout the State and that populations are not left behind. In particular, the Commission must coordinate with the CEC, whose Load Management Standards appear to be targeting the same general issues. Also, regardless of whether customers are unbundled or bundled, the basic principles of equity, transparency, and accessibility should apply. Further, while third-party

⁴ Pub. Util. Code section 739.9.

service providers can play an important role in successful implementation of flexibility demand rates, the Commission must set consumer protections to ensure that the rates and compensation benefits flow to customers. This is particularly important for low-income customers and communities. In other words, regardless of whether these systems and processes are managed by a third-party administrator or a utility, Commission oversight is critical.

Pilots and Programs Should Include Behavioral Demand Response

The Commission should authorize both automated demand response and programs that include a behavioral aspect to allow participation by households without steady wifi or without wifi-connected devices or appliances.

These equity principles are further applied below.

III. RESPONSES TO DECEMBER 2 QUESTIONS

1. Should the Commission adopt the staff proposal for modifying the electric rate design principles applicable to all electric rates of the large investor-owned electric utilities (see Attachment)? Why or why not?

The Commission should adopt the staff proposal for modifying the electric rate design principles, with the specific modifications that are described below.

2. Should the Commission adopt the staff proposal for new demand flexibility design principles applicable to all demand flexibility rates of large investor-owned electric utilities (see Attachment)? Why or why not?

The Commission should adopt the staff proposal for new demand flexibility design principles, with the specific modifications that are described below.

3. How should the Commission support the implementation of the amendments to the California Energy Commission's Load Management Standards?

As an initial matter, CEJA supports the Commission coordinating with the CEC in updating its Load Management Standards, as both efforts appear to be addressing many of the same concepts. Critically, the CEC may not be incorporating equity considerations consistent with the Commission's ESJ Action Plan, and there is a risk it will not include equity in a

meaningful way.⁵ The Commission should play the important role of supporting equity by deepening its engagement with the CEC around the standards.

- a. *When and how should the large investor-owned utilities be required to file applications for approval of compliant rates?*

While there is urgency to establish rates that will advance equity, affordability, clean air and climate, rates related to low-income households should not be set until the analysis of equity issues is completed. There is a real question of how equitable rates should be designed and what protections, such as changes to CARE, are necessary. Without consideration of equity protections, the IOUs should not move forward with rate changes. Furthermore, even when changes to low-income rates are finalized, the Commission should include bill protection for low-income households, to best ensure that the important mandates of AB 205 related to low-income household energy burdens are met.⁶

- b. *Are there any existing investor-owned utility tariffs or pilot rates that comply with the requirements for a dynamic, marginal cost-based rate?*

CEJA believes the residential ELRP, established in proceeding R.20-11-003, is an existing program that complies with these requirements and could be enhanced to become more effective. As the Commission observed, the program “will provide CARE customers and customers in Disadvantaged Communities an additional pathway to reduce their utility bills. Compensating customers who reduce their energy usage when called upon ... will promote equity because many residential customers are already participating in the Flex Alert program and are not receiving compensation. We also expect to achieve greater load impact by providing monetary incentives...”⁷

Implementation of this residential ELRP has thus far been unimpressive as communication and outreach have fallen short of what the Commission envisioned. The Commission should nonetheless adopt an improved version of as a behavioral pilot, as it shows great promise in achieving the twin goals of helping low-income households participate in

⁵ PUC, Environmental and Social Justice Action Plan 2.0 (Apr. 7, 2022), <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/news-and-outreach/documents/news-ey-issues/esj/esj-action-plan-v2jw.pdf>.

⁶ Pub. Util. Code section 739.9.

⁷ D.21-12-015, Phase 2 Decision Directing Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company to Take Actions to Prepare for Potential Extreme Weather in The Summers Of 2022 And 2023, at 56 (Dec. 6, 2021).

managing their own bills and reducing peak demand at critical moments for the grid. A behavioral pilot like the residential ELRP, which is developed to overcome barriers to participation faced by low-income and disadvantaged communities could provide valuable information about how a program could be designed to enable low-income household participation.

4. Should the Commission expand any of the existing dynamic rate pilots as a near-term solution to benefit system reliability?

a. If so, which pilots should the Commission expand and why?

The R.20-11-003 residential ELRP, described above in response to Question 3(b), should expand to test a more targeted implementation for low-income households. More pilots could help show how best to consider dynamic rates in relation to low-income households.

b. How should any of the expanded pilots be modified (e.g., duration, size, eligibility criteria, reporting/evaluation requirements, rate design, cost recovery)?

The Commission should identify and acknowledge the shortcomings of the residential ELRP and expand it to address barriers faced by low-income households discussed above in response to Track B, Question 1. A targeted expansion of the residential ELRP would *inter alia*:

- Focus on specific census tracts that are a) defined as disadvantaged communities and b) represent a variety of California low-income community conditions, such as different climate zones and varied housing stock;
- Include calls on days when demand is high, but that are not identified as the “flex alert” events to which the program is currently restricted;
- Explore engaging a third party to administer the program; and
- Make the baseline calculation and payment information accessible and transparent so that customers can receive near real-time data about how their reduction in usage is reducing their bill.

This type of program is not a dynamic rate, in that the rate does not fluctuate within an event or from event to event to reflect in-the-minute supply, demand, or grid conditions. It is, however, the type of program that should be explored for low-income households because it will not penalize them if they cannot participate in dynamic rates that require “smart” devices and steady wifi connections, and will reward them if they are able to reduce demand during the hours of greatest benefit to the grid. Given their high energy burdens and the risk of disconnection

from bill increases, a behavioral approach like the residential ELRP should be explored for low-income households instead of a more traditional dynamic rate.

CEJA may propose additional pilots in this proceeding, as well.

5. *Beyond the six-element California Flexible Unified Signal for Energy (CalFUSE) policy roadmap⁸ proposed by Energy Division staff, what alternate proposals for hourly, marginal cost-based rates should the Commission consider to enable widespread adoption of demand flexibility and support the implementation of the amendments to the California Energy Commission's Load Management Standards?*

A more focused look at equity is critical to adoption of demand flexibility as well as implementation of amendments to the Load Management Standards. The Commission should approach low-income program design beginning from an incentives perspective (“carrot not a stick” approach), and where the program risks operating punitively, it must include protections for low-income households such as changes to the CARE structure and bill protections.

Applying a dynamic rate structure to low-income households raises a number of concerns. Residential rates must be designed to address the barriers low-income households and communities face when seeking to engage with a changing electricity system, including with dynamic rates.

IV. RESPONSES TO DRAFT CPUC RATE DESIGN AND FLEXIBILITY PRINCIPLES

A. Changes to Existing Rate Design Principles

1) Staff proposal: *All residential customers (including low-income and medical baseline) should have access to enough electricity to ensure their essential needs (health, safety, and full participation in society) are met at an affordable cost.*

CEJA strongly supports ensuring all customers have access to enough electricity to meet their essential needs. Rather than “affordable cost”, defined by a representative household, the principle should reflect a household’s energy burden. CEJA recommends amendments in red as follows:

*All residential customers (including low-income and medical baseline) should have access to enough electricity to ensure their essential needs (health, safety, and full participation in society) are met **at an affordable cost** without imposing an undue energy burden.*

⁸ See Chapter 4 of Advanced Strategies for Demand Flexibility Management and Customer DER Compensation. <https://www.cpuc.ca.gov/industries-and-topics/electrical-energy/electric-costs/demand-response-dr/demand-response-workshops/advanced-der-and-demand-flexibility-management-workshop>

2) Staff proposal: *Rates should be based on marginal cost and should not have a negative Contribution to Margin.*

CEJA disagrees that all rates should be based on marginal cost, in particular for low-income customers. For some customer classes, rates should not be based on marginal cost, as it would be inequitable and impair achievement of important statewide goals. Further, it is not clear that all costs should fall on one side or the other related to the Contribution of Margin. For example, it might be preferable for an early adopter in a low-income community to have a negative Contribution to Margin given the role that the early adopter may play in future adoptions. Given this, CEJA strongly recommends that the Commission not adopt an absolute principle related to the Contribution to Margin. Instead, the Commission should allow for case by case consideration as issues arise. CEJA recommends amendments in red as follows:

For some customer classes, ~~r~~Rates should be based on marginal cost.

3) Staff proposal: *Rates should be based on cost-causation principles and avoid cost shifts.*

This principle potentially harms low-income and other customer by codifying barriers to reducing energy burden. Instead, CEJA recommends grounding this rate principle in equity, for example:

Rates should be just and reasonable and advance equity.

4) Staff proposal: *Rates should encourage greenhouse gas emissions reduction, beneficial electrification and cost-effective energy efficiency.*

CEJA generally supports this amendment but, for several reasons, recommends deleting “cost-effective.” First, energy efficiency is often a consumer-driven decision into which the Commission will not have a direct evaluation role. Second, significant federal funding that is newly available for energy efficiency will confound cost-effectiveness assessments. Finally, energy efficiency provides many benefits that are difficult to quantify in a cost-effectiveness analysis. CEJA further suggests deleting the term “beneficial” since no party has provided examples of electrification that are not beneficial. CEJA recommends amendments in red as follows:

Rates should encourage greenhouse gas emissions reduction, ~~beneficial~~ electrification and ~~cost-effective~~ energy efficiency.

5) Staff proposal: *Rates should optimize use of existing grid infrastructure and limit long-term infrastructure costs.*

CEJA supports modifying this principle to promote customer usage behavior and load management strategies to limit overall infrastructure cost, as the staff proposal explains. Based on party questions at the November 17, 2022 Track B workshop, CEJA recommends clarifying that grid infrastructure does not include gas-fired generation, or any carbon-emitting infrastructure. CEJA recommends amendments in red as follows:

Rates should incentivize customer usage behavior and load management strategies that optimize use of existing carbon-free grid infrastructure and limit long-term infrastructure costs.

6) Staff proposal: *Customers should have options to manage their bills.*

CEJA supports amending this principle to focus on managing bills rather than simply choosing among rates. The principle should preserve the value of customers understanding the rate and bill management options. CEJA recommends amendments in red as follows:

Customers should have options to manage their bills, with rates, charges and options that are understandable, transparent, stable, and accessible.

7) Staff proposal: *Rates should be technology-neutral and avoid cross-subsidies, unless the cross-subsidies appropriately support explicit state policy goals.*

CEJA does not support including a technology-neutral principle in rate design. There is a concern that preferential rates applicable to all-electric homes, or similar beneficial programs, could be portrayed as technology-specific in violation of this principle. CEJA supports this amendment, with the recommendation that the term “explicit” be deleted. CEJA recommends amendments in red as follows:

Rates should ~~be technology-neutral and~~ avoid cross-subsidies, unless the cross-subsidies appropriately support ~~explicit~~ state policy goals.

8) Staff proposal: *Rate incentives should be explicit and transparent.*

Rate incentive information is extremely difficult to understand, even when the incentives are explicit and transparent. Customers’ ability to manage their bills relies on customer understanding of both their current bills and the incentive-based options available to them. CEJA

recommends adding accessibility to this principle to more clearly name barriers faced by customers. CEJA recommends amendments in red as follows:

Rate incentives should be accessible, explicit and transparent.

9) Staff proposal: *Rates should encourage customer behavior that improves system reliability.*

CEJA supports amending this principle to include reliability, but recommends increasing the scope beyond solely system reliability. Rates should also encourage behavior that improves local reliability, as well as reductions in local air emissions and GHG emissions. CEJA recommends amendments in red as follows:

Rates should encourage customer behavior that improves ~~system~~ reliability and reduces emissions.

10) Staff proposal: *Transitions to new rate structures should emphasize customer education and outreach that enhances customer understanding and acceptance of new rates and minimizes the bill impacts associated with such transitions.*

CEJA supports this principle.

B. New Flexibility Design Principles

CEJA supports adoption of guiding principles to inform design of demand flexibility tariffs. As an initial matter, CEJA believes that, in order to center equity, these principles should begin with principles targeting aspects of equity to guide design.

Demand flexibility tariffs should incorporate and prioritize equity by reducing energy burden and barriers to participation in flexible rates.

Demand flexibility tariffs should reflect generation costs including emissions of greenhouse gases and other pollutants associated with serving load.

1) Staff proposal: *Demand flexibility tariffs should provide a dynamic price signal that can be easily integrated into standardized third-party DER and demand management solutions.*

CEJA has no recommended changes to Staff's proposal for this principle.

2) Staff proposal: *Dynamic prices should accurately integrate the value of energy, generation capacity, distribution capacity, and transmission capacity (to the extent feasible) based on real-time grid conditions.*

CEJA strongly supports the intent behind this principle and recommends clarifying it to explicitly include consideration of GHG and air quality impacts, and grid resilience. For example, it should include the social cost of carbon and air quality, as the Commission employs in its avoided cost calculations for Distributed Energy Resources. Dynamic prices should be designed employing similar avoided cost considerations.

CEJA also recommends additional language edits for clarity and accuracy. CEJA recommends amendments in red as follows:

Dynamic prices should accurately integrate the value of energy, ~~air quality and climate impacts, generation capacity,~~ distribution ~~capacity,~~ and transmission ~~infrastructure value-capacity (to the extent feasible)~~ based on real-time grid conditions ~~and avoided cost calculations.~~

3) Staff proposal: The systems & processes needed to calculate the dynamic price signal should be able to integrate bundled and unbundled rate components so that all Load Serving Entities can elect to participate.

CEJA generally agrees with this principle and the reasoning behind it. There may be a need to allow greater flexibility so that Community Choice Aggregators can innovate.

4) Staff proposal: Demand flexibility tariffs should be designed in accordance with all CPUC electric rate design principles.

CEJA supports including this principle if all the changes CEJA recommends above to the rate design principles are accepted.

5) Staff proposal: Customers should have access to tools and mechanisms (such as load shape subscriptions, forward transactions, bill protection, etc.) that enable them to plan and schedule their energy use while managing the monthly variability of their bills.

While this principle reflects important values of customer empowerment, CEJA is concerned that it assumes access to tools and mechanisms is sufficient for customers to adjust energy use. We recommend deleting the parenthetical, which seems unnecessary, and adding a sentence explaining the impact of failure to effectuate the principle. CEJA recommends amendments in red as follows:

Customers should have access to tools and mechanisms ~~(such as load shape subscriptions, forward transactions, bill protection, etc.)~~ that enable them to plan and schedule their energy use while managing the monthly variability of their bills. ~~For customers who do not have access to these tools, or ability to schedule energy use, variable pricing implicates equity concerns.~~

6. Demand flexibility tariffs should provide accurate cost-based compensation for exports that supports customer investments in electrification technologies and DERs.

CEJA supports this principle.

V. CONCLUSION

For the reasons discussed above, CEJA recommends that the Commission center equity in all aspects of this proceeding by adopting CEJA's equity principles and framework, and incorporate the proposed changes to the rate design and flexibility principles.

Thank you for consideration of these comments.

Dated: December 2, 2022

Respectfully submitted,

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